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**Remarks**

This Amendment is in response to the Notice of Non-Compliant Amendment dated **May 18, 2005**. In the Notice, the Examiner indicated that a complete listing of all of the claims was not present. A complete listing of all of the claims has been supplied herein. Applicant respectfully submits that the claims herein are in condition for allowance. Claims 1-32 have been cancelled and Claims 33-58 and new claims 59-61 remain in the application.

This Amendment is in response to the Office Action dated **December 17, 2004**. In the Office Action mailed December 17, 2004 claims 33-39 were rejected by the Examiner asserting 35 U.S.C. §103 over Suckow U.S. Patent No. 6,183,100. The Examiner further rejected claims 33, 37-58 over Kouchi U.S. Patent No. 4,868,719. The Applicant respectfully traverses the rejections by the Examiner, and for the reasons identified herein, Applicant respectfully submits that the claims herein are in condition for allowance. Claims 33-58 and new claims 59-61 remain in the application.

**35 U.S.C. §103**

In the Office Action, the Examiner rejected claims 33-39 arguing that U.S. Patent No. 6,183,100 ("Suckow") discloses:

"a controller constructed and arranged to activate the light emitting diodes thereby producing at least two different types of visually distinct warning light signals simultaneously (column 7-8, lines 60-20)."

Applicant respectfully traverses the assertion as to what the Suckow '100 reference discloses and/or teaches when reviewed in association with the '100 specification as applied to either claims 33 or 40 as amended herein. Suckow '183 discloses in column 7, line 60 through column 8, line 20 that a regulator circuit supplies power to an oscillator circuit and a pair of one shot oscillators connected to an "or" gate to provide a single type of light signal, namely "The result is two short duration flashes of light followed by a relatively long rest period

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followed by the two short duration flashes and so on." (Emphasis supplied) The repetition of two short flashes followed by a longer pause is a single type of light signal.

No disclosure is provided for the provision of at least two different types of visually distinct warning light signals being illuminated either simultaneously and/or in combination.

Applicant's analysis of the Suckow '100 reference is also consistent with the column 8, lines 50-53 which state "attention getting, strobe-like, double flash separated by about 1.2 seconds of off time and then repeating as long as the power is applied."

All of these statements from the specification of the '100 Suckow reference are consistent, and disclose nothing more than a flasher circuit to activate one and only one "type" of light signal at any given time. The specification of the Suckow '100 reference is completely silent and fails to teach, suggest, or disclose that a simultaneous or a combination light signal may be provided as formed of at least two different "types" of visually distinct warning light signals.

Applicant respectfully directs the Examiner's attention to the attached Declaration of Roman Marjamaa which is incorporated by reference herein in its entirety.

The Declaration of Roman Marjamaa indicates that Suckow '100 discloses the provision of one, and only one, type of light signal at any given time.

In the Office Action, the Examiner rejected claims 33, 37-58 arguing that U.S. Patent No. 4,868,719 ("Kouchi") discloses in Figures 7 and 8:

"controller constructed and arranged to produce the at least two different types of visually distinct warning light signals in at least one combination."

Applicant respectfully traverses the assertion as to what Figures 7 and 8 of the Kouchi '719 reference disclose and/or teach when reviewed in association with the '719 specification as applied to claims 33 and 40 as amended herein.

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The specification for the Kouchi '719 reference in column 2 lines 7-14 teach: The desirable patterns may, for example, include **a pattern** (single pattern) in which a light-emitting region on the matrix display continuously varies in area depending on an amount of depression of a break pedal, **a sequential display pattern** (single pattern) in which, at winker display, a light-emitting region moves with the lapse of time in the direction indicated, and **a pattern** (single pattern) formed by characters or symbols (either characters or symbols at any given time) in dependence upon circumstances. (Emphasis supplied)

The specification for the Kouchi '719 reference in addition states:

Column 3, lines 66-68 "The pattern generator 26 is adapted to output **a display pattern** signal in response to a command signal";

Column 4, lines 1-2 "A **signal** from the CPU 25 is outputted through an output port 27"; and

Column 4, lines 8-14 "the CPU 25 reads out **a display pattern** signal in accordance with the inputted signal, from the pattern generator 26, and outputs **the display pattern** signal to the drive circuit 19. On the basis of **the display pattern** signal from the CPU 25, the drive circuit 19 selectively turns on and off **the LEDs 16 forming the matrix display 18**".

The Kouchi '719 reference in column 4 lines 24-32 teaches that the depression of the break pedal causes the small central region of the display matrix to illuminate, where continued depression of the break pedal increases the area of illumination in the display. Applicant respectfully asserts that this disclosure teaches nothing more than **a single type** of light signal, namely a light signal which increases in luminosity. This is the teaching which is depicted in the timed snapshot drawings of Figures 5a and 5b. Figures 5a and 5b do not teach **multiple types** of light signals. Figures 5a and 5b teach a single type of light source (matrix) which is increasing in luminosity. Figures 5a and 5b do not teach **multiple types** of light signals simultaneously or **multiple types** of light signals in combination.

The Kouchi '719 reference also teaches column 4 lines 32-37 that the winker switch 23, is used to provide a so-called sequential display where illuminated light-emitting

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regions of the LED matrix move with the lapse of time in the right-hand direction. Applicant respectfully asserts that this disclosure teaches nothing more than **a single type** of light signal, namely a light signal which traverses across an LED matrix. This is the teaching which is depicted in the timed snapshot drawings of Figure 6. Figure 6 does not teach **multiple types** of light signals. Figure 6 teaches a **single type** of light signal which moves from left to right across an LED matrix. Figure 6 does not teach **multiple types** of light signals simultaneously or **multiple types** of light signals in combination.

The Kouchi '719 reference also teaches column 4 lines 44-51 and lines 59-62 that **a single word** such as "Stop", "Hazard", "Help", "Left", or "Right" may be displayed in the LED Matrix. The '719 specification teaches that the letters of the word may be illuminated. The specification of the '719 reference also teaches, in a different embodiment, that the background of the LED matrix may be illuminated, where the letters of the word are extinguished. Applicant respectfully asserts that this disclosure teaches nothing more than **a single type** of light signal at any given time, namely a word as displayed on an LED matrix. This is the teaching which is depicted in Figures 7 and 8. Figures 7 and 8 are alternatives and are not illuminated simultaneously and/or in combination. Figures 7 and 8 do not teach **multiple types** of light signals simultaneously or **multiple types** of light signals in combination. Figures 7 and 8 teach different ways in which a **single type** of light signal, namely a word, may be displayed on the LED matrix at a given time.

All of these statements from the specification of the '719 Kouchi reference are consistent, and disclose nothing more than the activation of **one and only one** "type" of light signal at any given time. The specification of the Kouchi '719 reference is completely silent and fails to teach, suggest, or disclose that a simultaneous or a combination light signal may be provided as formed of at least two different "types" of visually distinct warning light signals.

The teaching of simultaneous illumination of at least two **different types** of visually distinct warning light signals is not taught by the Kouchi '719 reference. The teaching of the illumination of at least two **different types** of visually distinct warning light signals in at

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least one combination and/or the provision of at least one pattern of at least two **different types** of visually distinct warning light signals is not taught by the Kouchi '719 reference.

The teaching of simultaneous illumination of at least two **different types** of visually distinct warning light signals is not taught by the Suckow '100 reference. The teaching of the illumination of at least two **different types** of visually distinct warning light signals in at least one combination and/or the provision of at least one pattern of at least two **different types** of visually distinct warning light signals is not taught by the Suckow '100 reference.

Applicant has previously distinguished claims 33 and 40 from Suckow '100 and from Kouchi '7101, as identified above. Claims 34-39 and 41-58 are dependent from claims 33 and 40 respectively and are allowable at minimum for the reasons identified above.

In regards to the Examiner's obviousness rejection of claims 33 and 40 under 35 U.S.C. §103, Applicant respectfully submits that there is no suggestion, teaching, or motivation presented in either Suckow '100 or Kouchi '719 either explicitly or implicitly, to provide for applicant's claimed invention herein. There is no suggestion in Suckow '100 or Kouchi '719 that the simultaneous illumination of **different types** of visually distinct warning light signals and/or combination, pattern, or sequence of **different types** of visually distinct warning light signals out to be tried.

The attached Declaration of Roman Marjamaa indicates, and Applicant respectfully asserts herein, that Applicant's invention is not obvious to a person of ordinary skill in the art in view of the Suckow '100 or Kouchi '719 references. Specifically, a person skilled in the art upon review of the Suckow '100 or Kouchi '719 patents would not have been able to use the disclosure to conceive, design, and create a controller which would generate at least two **different types** of visually distinct warning light signals either simultaneously and/or in combination. To provide a controller capable of regulating a composite lighting effect where two or more different types of visually distinct warning light signals were either generated simultaneously and/or in combination, a person skilled in the art would have scratched both the Suckow '100 or Kouchi '719 disclosures and would have initiated a complete electrical redesign. A substantial modification and complete electrical redesign of the Suckow '100 and/or Kouchi '719 electrical components would be required to provide for Applicant's invention herein.

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A person skilled in the art attempting to design a controller capable of illuminating at least two **different types** of visually distinct warning light signals simultaneously and/or in combination would have been required to look significantly beyond both the Suckow '100 or Kouchi '719 disclosures to accomplish the desired result. A person skilled in the art upon reading the Suckow '100 or Kouchi '719 references would not have been able to make the invention as disclosed in the current application and as claimed herein. Applicant's invention is not obvious to a person of ordinary skill in the art in view of either the Suckow '100 or Kouchi '719 patents.

Suckow '100 is circular beacon which provides a single type of repetitive pattern of light signal, as formed of two successive bursts of light followed by a pause, and then repeating the single pattern. Kouchi '719 is a break light which enables the selection of a desired single type of light signal activated by a break pedal.

Applicant respectfully requests the Examiner reconsider and withdraw the obviousness rejection of claims 33 and 40 pursuant to 35 U.S.C. §103 in view of the Suckow '100 and/or Kouchi '719 references.

No suggestion, motivation, or teaching is provided in either the Suckow '100 or Kouchi '719 references for incorporation of LED's into a device controlled by at least one controller used to simultaneously generate at least two **different types** of visually distinct warning light signals. No suggestion, motivation, or teaching is provided in the Suckow '100 or Kouchi '719 references for incorporation of LED's into a device controlled by at least one controller to generate at least two **different types** of visually distinct warning light signals in at least one combination. No suggestion, motivation, or teaching is provided in the Suckow '100 or Kouchi '719 references for combination with any other reference to simultaneously generate at least two **different types** of visually distinct warning light signals. No suggestion, motivation, or teaching is provided in the Suckow '100 or Kouchi '719 references for combination with any other reference to provide the illumination of at least two **different types** of visually distinct warning light signals in at least one combination.

There is no teaching, suggestion, or motivation in either Suckow '100 or Kouchi '719 to use at least one "controller in electric communication with the light emitting diodes", to control the patterns and/or sequences of **different types** of LED light signals. Any alleged use of

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either Suckow '100 or Kouchi '719, to teach applicants invention is improper. The Suckow '100 or Kouchi '719 references would "require a substantial reconstruction and redesign of the elements as well as a change in the basic principle under which the construction was designed to operate." (*In re Ratti*, 270 F.2d at 813, 123 USPQ at 352.). This is not permitted for a §103 rejection.

Applicant respectfully submits that Kouchi '719 merely discloses the illumination of one of four choices related to individual and independent types of illumination signals. The rejection of Applicant's claims herein as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of the claims herein pursuant to 35 U.S.C. §103.

In order to create an operational controller of Applicant's invention, problems such as the individual control over multiple segments of LED's; multiple connections of segments of LED's to a controller; operation of at least one controller to independently illuminate individual and/or groups of LED's, where other LED's or groups of LED's are controlled to receive a **different type** of light signal; the interaction of LED's or groups of LED's as regulated by the at least one controller to provide a desired combination or pattern of composite light signal; and heat issues were required to be considered. None of these problems were present, considered, addressed or taught, in the devices as disclosed in the Suckow '100 and/or Kouchi '719 references. The solutions to these problems are not trivial and require a complete electrical redesign of a Suckow '100 and/or Kouchi '719 device, are not obvious, and do not constitute a choice in design, especially when a completely different problem is to be solved.

It is not a matter of design choice and it is not obvious to create, incorporate and utilize at least one controller into a warning signal light for the provision of either at least two **different types** of visually distinct warning light signals simultaneously or for the provision of at least two **different types** of visually distinct warning light signals in at least one combination. (See Declaration of Roman Marjamaa) The technology required to accomplish and solve the problems identified above were not identified or disclosed in the Suckow '100 and/or Kouchi '719 references.

Any assertion as to the illumination of at least two different types of visually

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distinct warning light signals in at least one combination as being merely a matter of choice in design is inconsistent with the affidavit of Roman Marjamaa as attached hereto.

Applicant therefore respectfully traverses the Examiner's rejection of Applicant's claims herein pursuant to 35 U.S.C. §103 as being a matter of choice and design in view of the Suckow '100 reference.

Applicant respectfully requests the Examiner to provide a declaration pursuant to 37 C.F.R. §1.104(d)(2) that the illumination of at least two different types of visually distinct warning light signals simultaneously and the illumination of at least two different types of visually distinct warning light signals in at least one combination is a matter of design choice in view of the Suckow '100 and/or Kouchi '719 references and in view of the declaration of Roman Marjamaa attached hereto and incorporated by reference herein.

Applicant respectfully further submits that any modification or combination of prior art that would change the principle of operation of the prior art cannot establish obviousness. Applicant respectfully submits that the Suckow '100 and/or Kouchi '719 references each require a substantial modification to accomplish applicants invention herein, and therefore may not be used as prior art in support of an assertion of obviousness of Applicant's claims.

In regards to claim 41, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in any combination. For the reasons indicated above, rejection of claim 41 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 41 pursuant to 35 U.S.C. §103.

In regards to claim 42, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals, either simultaneously and/or in combination, or wherein the at least two different types of visually distinct warning light signals are generated simultaneously in an any combination. For the reasons indicated above, rejection of claim 42 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against



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Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 42 pursuant to 35 U.S.C. §103.

In regards to claim 43, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals, in combination, or wherein the at least two different types of visually distinct warning light signals are generated alternatively in an any combination. For the reasons indicated above, rejection of claim 43 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 43 pursuant to 35 U.S.C. §103.

In regards to claim 44, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in any combination, or wherein the at least two different types of visually distinct warning light signals are generated in an any combination of two or more visually distinct warning light signals. For the reasons indicated above, rejection of claim 44 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 44 pursuant to 35 U.S.C. §103.

In regards to claim 45, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals simultaneously in any combination, or wherein the at least two different types of visually distinct warning light signals are generated simultaneously in an any combination of two or more visually distinct warning light signals. For the reasons indicated above, rejection of claim 45 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 45 pursuant to 35 U.S.C. §103.

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In regards to claim 46, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals alternatively in any combination, or wherein the at least two different types of visually distinct warning light signals are generated alternatively in an any combination of two or more visually distinct warning light signals. For the reasons indicated above, rejection of claim 46 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 46 pursuant to 35 U.S.C. §103.

In regards to claim 47, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least three **different types** of visually distinct warning light signals in any combination, or wherein the at least three different types of visually distinct warning light signals are generated in an any combination of three or more visually distinct warning light signals. For the reasons indicated above, rejection of claim 47 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 47 pursuant to 35 U.S.C. §103.

In regards to claim 48, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least three **different types** of visually distinct warning light signals simultaneously in any combination, or wherein the at least three different types of visually distinct warning light signals are generated simultaneously in an any combination of three or more visually distinct warning light signals. For the reasons indicated above, rejection of claim 48 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 48 pursuant to 35 U.S.C. §103.

In regards to claim 49, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in either the Suckow '100 and/or Kouchi '719 references for

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at least one controller capable of illuminating at least three **different types** of visually distinct warning light signals alternatively in any combination, or wherein the at least three different types of visually distinct warning light signals are generated alternatively in an any combination of three or more visually distinct warning light signals. For the reasons indicated above, rejection of claim 49 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 49 pursuant to 35 U.S.C. §103.

In regards to claim 50, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in a regular pattern. For the above-identified reasons, rejection of claim 50 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claim 50 pursuant to 35 U.S.C. §103.

In regards to claim 51, the Applicant respectfully submits that no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in an intermittent pattern. For the reasons indicated above, rejection of claim 51 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 51 pursuant to 35 U.S.C. §103.

In regards to claim 52, the Applicant respectfully submits that, no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in an irregular pattern. For the above-identified reasons, rejection of claim 52 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 52 pursuant to 35 U.S.C. §103.

In regards to claim 53, the Applicant respectfully submits that, no suggestion,

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disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in an regular sequence. For the above-identified reasons, the rejection of claim 53 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 53 pursuant to 35 U.S.C. §103.

In regards to claim 54, the Applicant respectfully submits that, no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in an intermittent sequence. For the above-identified reasons, rejection of claim 54 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 54 pursuant to 35 U.S.C. §103.

In regards to claim 55, the Applicant respectfully submits that, no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals in an irregular sequence. For the above-identified reasons, rejection of claim 55 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 55 pursuant to 35 U.S.C. §103.

In regards to claim 56, the Applicant respectfully submits that, no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals where the at least two different types of visually distinct warning light signals are generated at regular intervals. For the above-identified reasons, the rejection of claim 56 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 56 pursuant to 35 U.S.C. §103.

In regards to claim 57, the Applicant respectfully submits that, no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at

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least one controller capable of illuminating at least two **different types** of visually distinct warning light signals where the at least two different types of visually distinct warning light signals are generated at intermittent intervals. For the above-identified reasons, the rejection of claim 57 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 57 pursuant to 35 U.S.C. §103.

In regards to claim 58, the Applicant respectfully submits that, no suggestion, disclosure, or motivation is provided in the Suckow '100 and/or Kouchi '719 references for at least one controller capable of illuminating at least two **different types** of visually distinct warning light signals where the at least two different types of visually distinct warning light signals are generated at irregular intervals. For the above-identified reasons, the rejection of claim 58 as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims. Applicant respectfully submits that the examiner reconsider and withdraw the rejection of claim 58 pursuant to 35 U.S.C. §103.

Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 33, 37-58 pursuant to 35 U.S.C. §103.

The Declaration of Roman Marjamaa as attached hereto and incorporated by reference herein asserts that the teaching of a composite light signal formed of two different types of light signals simultaneously, or two different types of light signals in combination, is not obvious and is not taught in the Suckow '100 and/or Kouchi '719 references. The Declaration of Roman Marjamaa further asserts that in order to provide for a plurality of available light signals, for illumination of two or more **different types** of light signals simultaneously, or two or more **different types** of light signals in combination, that a significant physical modification and an electrical redesign of the Suckow '100 and/or Kouchi '719 references would have been required.

The Declaration of Roman Marjamaa also asserts that the Suckow '100 and/or Kouchi '719 references do not address the problems which have been identified related to the generation of two or more **different types** of light signals either simultaneously and/or in combination. Mr. Marjamaa has rendered his opinion that the invention described in the present application would not have been obvious to a person of ordinary skill in the art following a review of the Suckow '100 and/or Kouchi '719 references either individually and/or in

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combination.

Applicant respectfully asserts that it is essential to consider all elements of the claimed invention. (*Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 19 USPQ2d 1111 (Fed. Cir. 1991)) Also, the claimed invention must be considered as a whole. (*Jones, supra*). The fact that all the elements of the claimed invention were not previously disclosed, as a whole, in Suckow '100 and/or Kouchi '719 references precludes proper rejection pursuant to 35 U.S.C. §103.

It is legally improper to focus on the obviousness of substitutions and differences between the claimed invention and the prior art rather than on the obviousness of the claimed invention **as a whole** relative to that prior art (Emphasis added). (*Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1383, 231 USPQ 81, 93 (Fed. Cir. 1986)).

Applicant respectfully further submits that Suckow '100 and/or Kouchi '719 references do not suggest, teach, or provide any motivation for using a warning signal light constructed and arranged to...produc[e] at least two **different types** of visually distinct warning signals either simultaneously or in combination, on either utility or emergency vehicles. Without such a suggestion, teaching, or motivation, Applicant again respectfully asserts that obviousness cannot be established to allegedly produce the claimed invention (*In re Fine, supra*).

The rejection of Applicant's claims herein as being obvious in view of 35 U.S.C. §103 impermissibly uses the hindsight teaching of Applicant's invention against Applicant's claims herein. Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of the claims herein pursuant to 35 U.S.C. §103.

#### **Formalities**

If an extension of time is required to make this response timely and no separate petition is enclosed, Applicant hereby petitions for an extension of time sufficient to make the response timely. In the event that this response requires the payment of government fees and payment is not enclosed, please charge Deposit Account No. 22-0350.

#### **Conclusion**

It is believed that previously presented claims 33-58 and new claims 59-61 remain

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in the present application and are in condition for allowance in view of the foregoing. Applicant respectfully requests reconsideration of the claims herein and that the rejections be withdrawn and the claims be allowed. The Applicant respectfully requests that the Examiner enter the amendment which Applicant believes puts the application in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: June 1, 2005

By: 

Edwin E. Voigt II  
Registration No.: 36042

6109 Blue Circle Drive, Suite 2000  
Minnetonka, MN 55343-9185  
Telephone: (952) 563-3000  
Facsimile: (952) 563-3001

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